THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.9380 OF 2002

Dated:11-08-2005

Between:

Ch. Ramanadham.

..Petitioner.

And

The L.B.Nagar Municipality, Saroornagar, represented by the Commissioner and others.

..Respondents.

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.9380 OF 2002

ORDER:

This writ petition is filed seeking a direction to the first respondent to demolish the partly constructed 3rd floor in plot No.4 in Sy.No.25 of Saroornagar Village, Ranga Reddy District and also to initiate suitable action to see that the construction of the building is strictly as per the approved and sanctioned plan.

The brief facts are that the husband of the third respondent is a builder and he is constructing residential complex in plot No.4 in Sy.No.25 of Saroornagar Village. The first respondent-Municipality gave permission to the third respondent for construction of ground plus 2 floors leaving the mandatory set backs as shown in the sanctioned plan. But the third respondent is proceeding with the constructions of third floor without obtaining permission from the first respondent and such unauthorized construction will create unnecessary complications to the petitioner in future. So, the petitioner reported the same to the 1st and 2nd respondents, but no action has been taken so far. Hence, this writ petition.

In the counter-affidavit filed by the second respondent, it is stated that the third respondent obtained necessary approval from the first respondent only for construction of residential building consisting of ground plus 2 upper floors vide permission dated 3-11-2001, but he is illegally converted it into apartment and raised 3rd floor pillars upto roof level. A show cause notice was issued to the third respondent on 23-3-2002 and it was also brought to the notice of the first respondent to take necessary action for removal of illegal constructions. In response to the same, the first respondent intimated that he received an injunction order from the Court on the suit filed by the third respondent and is taking steps to vacate the said injunction order.

Heard both the counsel.

Having regard to the facts and circumstances of the case, it is apparent on record that the third respondent filed a suit in O.S.No.68 of 2002 on the file of the Principal Junior Civil Judge, East & North, Ranga Reddy District and also obtained an injunction order against the first respondent-Municipality in I.A.No.130 of 2002 dated 23-01-2002.

In this view of the matter, as the dispute in question is already pending adjudication before the Court below, it cannot be decided at this stage to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

Therefore, I see no merits in this writ petition and the same is liable to dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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11-08-2005

sj